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## HB 297

Sponsored By: David Howard  
House Business & Labor Committee

### Summary:

- This bill would mandate that every business in the State of Montana use of the federal E-Verify computer system to check the immigration status of every new hire, **ON TOP** of completing the federal I-9 employment form that employers already have to complete when hiring new workers.
- It encourages Montanans to call the authorities and file a complaint against their neighbors if they suspect anyone has hired an unauthorized alien. Then, the Department of Justice must go through a costly and complicated process to investigate the complaint and pursue sanctions, and the employer has to defend themselves and their reputation – potentially in district court.
- It allows the state to suspend all business licenses if they are not satisfied with the employer's responses to their investigation.
- It imposes a new costly mandate on the state to enforce federal immigration employment laws. The fiscal note says this new enforcement scheme **will cost the state over \$1 million over the next four years**, and will not save the state a penny.

### Analysis:

- E-Verify is a voluntary federal system that is not ready to be imposed upon business owners in this state.
  - The federal government hasn't made E-Verify mandatory, and for good reason. The federal government's own audits show that error rates are still too high, and employer abuses are occurring too frequently. In this struggling economy, the last thing our small businesses need is to be

forced to use a voluntary federal system that the federal government itself has found to be problematic.

- The E-Verify system would be bad for Montana businesses and residents, who would suffer the consequences of using an inaccurate and incomplete computer system. The error rates will slow down the hiring process, and will deny the right to work to citizens and residents who are fully authorized to work.
- How the current employment verification scheme works:
  - Presently, employers only have to complete an I-9 employment verification form. They check specific forms of ID, and the employer and employee both sign the form. As long as an employer does this form, they are protected.
  - E-Verify is in addition to this I-9 scheme. Let me repeat that – E-Verify doesn't replace the I-9 scheme – it only requires one more step!
- E-Verify requires a computer, or that the employer pay an outside vendor to run these searches. Many small businesses in Montana don't have computers and can't bear this cost.
- In addition, E-Verify is failing in its primary purpose, because it fails to discover when an employee is using someone else's information. Therefore, the use of this system is not worth the additional costs and burdens.
- You must also focus your attention on the **unreliable and damaging enforcement mechanism** that this bill would create.
  - This bill actually encourages Montanans to call the authorities and file a complaint against their neighbors if they suspect anyone has hired an unauthorized alien. The bill says that anyone can make a complaint if they have "actual or constructive knowledge."
    - Constructive knowledge is a vague legal term, meaning that people will be able to make complaints based on suspicions or inferences, even if they don't have any solid facts.
  - It's unfortunate, but many people in our society are quick to rush to judgment about a person's immigration status without actually knowing any details about the individual. Many of the complaints will be based on rumor and innuendo rather than facts. However, employers will bear the cost to their business and reputation.

- Nothing in this bill protects accused employees, who may be humiliated or even be fired as a result of a false complaint.
- While federal law prevents discrimination in hiring practices, this law would likely have a chilling effect on the hiring of legally authorized employees who are (or appear to be) foreign nationals.
  - Federal law attempts to prevent discrimination in hiring practices by forbidding an employer from asking immigrants for more proof of employment authorization than anyone else. However, losing one's business license is an extreme penalty that is sure to prompt some employers to violate this law.
  - When faced with the possibility of frivolous complaints under this law, and the negative publicity that these complaints could bring even if the allegations are untrue, employers will be less likely to hire "foreign" looking employees – even those who are authorized for employment.
- Finally, I want to emphasize that this is not a Montana bill designed to address a Montana problem. This bill is identical to those being pushed in other states by national anti-immigrant groups.
  - Even the proponents of these bills state that we have about 4,000 undocumented workers in the state.
  - We cannot let the agenda of a small minority of anti-immigrant activists waste the time and resources of our state agencies and courts. There is no compelling need for this bill, and it would be costly to the state.

**We ask that you vote "do not pass" on HB 297.**